

MARKED UP VERSION OF CLAIMS WITH MARKING

TO SHOW CHANGES MADE

Claim 1. (Currently Amended) An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising:

    a pair of headphones, each of which has a housing containing a speaker;  
    a head band connecting each of said headphones adapted to be fitted over the head of a user so that the headphones [[fits]] fit over a user's ears, said head band also containing electrical transmission means electrically connecting the speakers in the headphones;  
    at least one of said headphones being provided with at least a pair of female ports adapted to receive cable plugs which are formed on the end of cables leading to an external auxiliary audio device and [[a]] an external cellular telephone separate from said auxiliary audio device and means in at least one headphone to terminate an audio signal emanating from said auxiliary audio device; and  
    a microphone mounted on a cable leading to said cellular telephone with means for receiving and transmitting audible messages during a telephone conversation.

Claim 2. (Currently Amended) An apparatus as claimed in Claim 1 wherein said microphone contains a switch for activating and deactivating said [[cell]] cellular phone.

Claim 3. (Original) An apparatus as claimed in Claim 1 wherein said headphone housing contains a switching circuit which is activated by an incoming telephone call to switch off the audio signal from the auxiliary audio device.

Claim 4. (Original) An apparatus as claimed in Claim 1 wherein at least one headphone housing is provided with marking indicia to indicate which female port is to be used with a cell phone and which female port is to be used with an auxiliary audio device.

Claim 5. (Original) An apparatus as claimed in Claim 1 wherein said auxiliary sound device consists

of a group selected from AM/FM radio, CD player, cassette players, MP3 player.

Claim 6. (Original) An apparatus as claimed in Claim 1 wherein said microphone contains voice activated software which controls volume of the cellular telephone audio volume.

Claim 7. (Original) An apparatus as claimed in Claim 1 wherein said microphone contains voice activated software for activating and deactivating said cellular telephone.

Claim 8. (Original) An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising:

    a pair of headphones, each headphone being provided with a housing with a speaker mounted therein;

    a head band connecting said headphones adapted to be fitted over the head of a user, said head band also containing electrical transmission means connected to the speakers in the headphones;

    at least one of said headphones housings being provided with at least a pair of female ports adapted to receive cable plugs secured to the end of cables, said cables being constructed to engage an auxiliary audio device and a cellular telephone;

    switching circuit means located in said housing in connection with at least one of said female ports to interrupt audio signals transmitted from an auxiliary audio device when a cellular telephone is activated by an incoming call; and

    a microphone mounted on a cable leading from said housing to said cellular telephone for receiving and transmitting audible messages occurring during a telephone conversation.

Claim 9. (Original) An apparatus as claimed in Claim 8 wherein said microphone contains voice activation software for calling a preprogrammed number on said cellular telephone

Claim 10. (Original) An apparatus as claimed in Claim 8 wherein said female ports are provided with marking indicia to indicate which female port is to be used with a cell phone and which female port is to

be used with an auxiliary sound device.

Claim 11. (Original) An apparatus as claimed in Claim 8 wherein said auxiliary audio device consists of a group selected from AM/FM radio, CD player, cassette players, MP3 player.

Claim 12. (Original) An apparatus as claimed in Claim 8 wherein said microphone contains voice activation software for changing the volume on calls received on said cellular telephone.

Claim 13. (Original) An apparatus as claimed in Claim 8 wherein said microphone contains voice activation software for activating said switching circuit to allow transmission of audio signals from said auxiliary audio device.

Claim 14. (Original) An apparatus as claimed in Claim 8 wherein said switching circuit causes said microphone containing a voice activation software to announce another caller during a pending telephone conversation.

Claim 15. (Currently Amended) An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising:

    a pair of headphones having a housing with speaker means mounted therein;

    a head band connecting said headphone adapted to be fitted over the head of a user, said head band also containing electrical means electrically connected to the speakers in the headphones;

    at least one of said headphones being provided with at least a pair of female ports, [[adapted to have]] receiver means mounted [[therein]] to said female ports, said receiver means being constructed to receive signals [[emanating]] emanating from an auxiliary audio device and a cellular telephone;

    switching circuit means located in said housing with said female ports to interrupt audio signals received by said receiver means from an auxiliary audio device before such signals are transmitted to a speaker when said cellular telephone is activated by an incoming call and emits a signal; and

    a microphone connected to said housing for receiving audible messages from said user

to a caller.

Claim 16. (Original) An apparatus as claimed in Claim 15 wherein said microphone contains a switch for activating and deactivating said cellular telephone.

Claim 17. (Original) An apparatus as claimed in Claim 15 wherein said female ports are provided with marking indicia to indicate which female port is to be used with a cell phone and which female port is to be used with an auxiliary audio device.

Claim 18. (Original) An apparatus as claimed in Claim 15 wherein said auxiliary audio device consists of a group selected from AM/FM radio, CD player, cassette players, MP3 player,

Claim 19. (Currently Amended) An apparatus as claimed in Claim 15 wherein said receiver means is a infrared receiver.

Claim 20. (Currently Amended) An apparatus as claimed in Claim 15 wherein said receiver means is a RF receiver.

Claim 21. (New) An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising:

    a pair of headphones each of which has a housing containing a speaker;

    at least one housing containing a switching circuit which is activated by an incoming telephone call to switch off the audio signal from an auxiliary audio device;

    a head band connecting each of said headphones adapted to be fitted over the head of a user so that the headphones fits over a user's ears, said head band also containing electrical transmission means electrically connecting the speakers in the headphones;

    at least one of said headphones being provided with at least a pair of female ports adapted to receive cable plugs which are formed on the end of cables leading to an auxiliary audio device and a cellular telephone; and

a microphone mounted on a cable leading to said cellular telephone for receiving and transmitting audible messages during a telephone conversation, said microphone containing a switch for activating and deactivating said cell phone.

Claim 22. (New) An apparatus as claimed in Claim 1 wherein said microphone contains voice activated software which controls volume of the cellular telephone audio volume.

Claim 23. (New) An apparatus as claimed in Claim 1 wherein said microphone contains voice activated software for activating and deactivating said cellular telephone.

REMARKS

Applicant traverses the rejection of claims 1-7 by the Examiner as being obvious and unpatentable under 35 USC 103 and claims 15-20 as being indefinite under 35 USC 112. The Examiner has indicated that claims 15-20 would be allowable if amended to overcome the stated 112 rejection and the claims have been amended to address the various rejections including adding antecedent basis for claims 19 and 20.

Claims 1, 3 and 5 are rejected under 35 USC 103(a) as being unpatentable over Jones U.S. Patent Number 6,606,506 when combined with Antle U.S. Patent Number 4,499,593. The Examiner's representation of Jones '506 as having a microphone mounted on a cable leading to a cellular telephone for receiving and transmitting audible messages during a telephone message during a telephone conversation.

As noted in column 3, lines 39-51 of Jones '506:

"Antennas for a cellular telephone, described in greater detail hereinafter, and an AM/FM radio, described in greater detail hereinafter, are preferably incorporated in a head band 22. When using higher bandwidth range options an external antenna (not shown) may be provided. A microphone 24 is shown incorporated in the left headphone of the headset 12. Alternatively, the microphone 24 may be incorporated in the right headphone of the headset 12. The headset 12 is preferably receives power via a cable 20 from the control/display unit 18, or master unit, since the headset 12 contains no volatile storage, or storage that is lost when the power is removed, that cannot be quickly restored when the invented device is powered."

Jones '506 requires a specially built combination cell phone, CD and radio placed in a single housing which can alternatively be operated by a remote wrist ban unit. The present invention allows a user to use any cell phone or radio from any supplier.

Jones '506 has an internal cell phone, radio and controls while the present invention has an

external cell phone and audio device with the controls being located in these devices. As noted in column 5, lines 61-65 of Jones '506:

"Cellular telephone controls 57 are also under the control of the control bus 52. The microphone 59 is operatively connected to the cellular telephone subsystem 56. The AM/FM radio 60 is tuned to a band and station as directed by the control bus via a radio control 61."

Thus, the internal bus provides controls for all internal devices.

In Jones '506, the main controller generates a beep tone to alert a user of an incoming call or unincorporated cell phone (while the music is still playing). In the present invention, an incoming phone call comes through the switch in the headset and a phone signal (not beep) is heard. The user then goes to the cell phone's control and either accepts the call or continues with voice or does not accept the call in which case the music returns after the ringing ends.

In summary, the present device is a connecting device using existing devices (radio, cell phone) with the switch in the headset. This is set forth in the background of the invention of the Jones '506 patent; namely:

"Currently, in order to obtain the benefits of different entertainment devices, such as a personal portable radio, a portable CD player, and portable tape player, and/or communication devices, such as a pager and a cellular telephone, each device must be purchased separately and carried by the user. Carrying all of such devices in order to have them readily accessible to the user is burdensome and requires valuable space for such devices, particularly when traveling outdoors. Additionally, clutter is created without the assistance of a bag to hold all of such devices."

In view of the amendments to claim 1, the secondary references such as Antle U.S. Patent Number 4,499,593, Attig et al. U.S. Patent Number 5,247,705, Kowalczyk U.S. Patent Number 5,862,235, Kim U.S. Patent Number 6,278,884 and Inasaka U.S. Patent Application Publication Number 2002/0094845 with Jones '506 have not been discussed. A set of formal drawings is submitted with this

Amendment to respond to the informal drawings request.

If any additional charges are required, please charge Deposit Account Number 07-1340. A check for the newly added claims 21-23 is also attached together with a fee transmittal sheet.

It is respectfully submitted that the arguments and amendments place the present application in condition for allowance and passage to issue.

Respectfully submitted,

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